

Farm Credit Administration

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the holder, and having no other provisions that will require the future redemption of the issue.

(h) *Qualified allocated equities* means allocations of earnings that are deducted from the gross taxable income of the allocating institution and designated to the institution's members.

(i) *Total surplus* means:

(1) Undistributed earnings/unallocated surplus;

(2) Allocated equities, including allocated surplus and stock, that are not subject to a plan or practice of revolvment or retirement of 5 years or less and are eligible to be included in permanent capital pursuant to § 615.5201(j)(4)(iv); and

(3) Stock (other than allocated stock) that is not purchased or held as a condition of obtaining a loan, provided that it is either perpetual stock or term stock with an original maturity of at least 5 years, and provided that the institution has no established plan or practice of retiring such perpetual stock or of retiring such term stock prior to its stated maturity. The amount of term stock that is eligible to be included in total surplus shall be reduced by 20 percent (net of redemptions) at the beginning of each of the last 5 years of the term of the instrument.

(4) The total surplus of an institution shall exclude the net effect of all transactions covered by the definition of "accumulated other comprehensive income" contained in the Statement of Financial Accounting Standards No. 130, as promulgated by the Financial Accounting Standards Board.

(5) A capital instrument or a particular balance sheet entry or account that the Farm Credit Administration has determined to be the functional equivalent of a component of total surplus. The Farm Credit Administration may permit one or more institutions to include all or a portion of such instrument, entry, or account as total surplus, permanently or on a temporary basis, for purposes of this subpart.

(6) The Farm Credit Administration may, if it finds that a particular component, balance sheet entry, or account has characteristics or terms that diminish its contribution to an institution's ability to absorb losses, require

the deduction of all or a portion of such component, entry, or account from total surplus.

(7) Any deductions made by an institution in the computation of its permanent capital pursuant to § 615.5210(e) shall also be made in the computation of its total surplus.

[62 FR 4447, Jan. 30, 1997; 62 FR 19219, Apr. 21, 1997; 63 FR 39228, July 22, 1998]

§ 615.5330 Minimum surplus ratios.

(a) *Total surplus.* (1) Each institution shall achieve and at all times maintain a ratio of at least 7 percent of total surplus to the risk-adjusted asset base.

(2) The risk-adjusted asset base is the total dollar amount of the institution's assets adjusted in accordance with § 615.5301(i)(7) and weighted on the basis of risk in accordance with § 615.5210(f).

(b) *Core surplus.* (1) Each institution shall achieve and at all times maintain a ratio of core surplus to the risk-adjusted asset base of at least 3.5 percent, of which no more than 2 percentage points may consist of allocated equities otherwise includible pursuant to § 615.5301(b).

(2) Each association shall compute its core surplus ratio by deducting an amount equal to the net investment in the bank from its core surplus.

(3) The risk-adjusted asset base is the total dollar amount of the institution's assets adjusted in accordance with §§ 615.5301(b)(3) and 615.5330(b)(2), and weighted on the basis of risk in accordance with § 615.5210(f).

(c) An institution shall compute its risk-adjusted asset base, total surplus, and core surplus ratios using average daily balances for the most recent 3 months.

[63 FR 39228, July 22, 1998]

§ 615.5335 Bank net collateral ratio.

(a) Each bank shall achieve and at all times maintain a net collateral ratio of at least 103 percent.

(b) At a minimum, a bank shall compute its net collateral ratio as of the end of each month. A bank shall have the capability to compute its net collateral ratio a day after the close of a business day using the daily balances

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outstanding for assets and liabilities for that date.

[63 FR 39229, July 22, 1998]

§ 615.5336 Compliance and reporting.

(a) *Noncompliance and reporting.* An institution that meets the minimum applicable surplus ratios and net collateral ratio established in §§ 615.5330 and 615.5335 at or after the end of the quarter in which these regulations become effective and subsequently falls below one or more minimum requirements shall be in violation of the applicable regulations. Such institution shall report its noncompliance to the Farm Credit Administration within 20 calendar days following the month end in which the institution initially determines that it is not in compliance with the requirements.

(b) *Initial compliance and reporting requirements.*

(1) An institution that fails to satisfy one or more of its minimum applicable surplus and net collateral ratios at the end of the quarter in which these regulations become effective shall report its initial noncompliance to the Farm Credit Administration within 20 days following such quarter end and shall also submit a capital restoration plan for achieving and maintaining the standards, demonstrating appropriate annual progress toward meeting the goal, to the Farm Credit Administration within 60 days following such quarter end. If the capital restoration plan is not approved by the Farm Credit Administration, the Agency shall inform the institution of the reasons for disapproval, and the institution shall submit a revised capital restoration plan within the time specified by the Farm Credit Administration.

(2) *Approval of compliance plans.* In determining whether to approve a capital restoration plan submitted under this section, the FCA shall consider the following factors, as applicable:

(i) The conditions or circumstances leading to the institution's falling below minimum levels, the exigency of those circumstances, and whether or not they were caused by actions of the institution or were beyond the institution's control;

(ii) The overall condition, management strength, and future prospects of

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the institution and, if applicable, affiliated System institutions;

(iii) The institution's capital, adverse assets (including nonaccrual and nonperforming loans), allowance for loss, and other ratios compared to the ratios of its peers or industry norms;

(iv) How far an institution's ratios are below the minimum requirements;

(v) The estimated rate at which the institution can reasonably be expected to generate additional earnings;

(vi) The effect of the business changes required to increase capital;

(vii) The institution's previous compliance practices, as appropriate;

(viii) The views of the institution's directors and senior management regarding the plan; and

(ix) Any other facts or circumstances that the FCA deems relevant.

(3) An institution shall be deemed to be in compliance with the surplus and collateral requirements of this subpart if it is in compliance with a capital restoration plan that is approved by the Farm Credit Administration within 180 days following the end of the quarter in which these regulations become effective.

Subpart L—Establishment of Minimum Capital Ratios for an Individual Institution

SOURCE: 62 FR 4448, Jan. 30, 1997, unless otherwise noted.

§ 615.5350 General—Applicability.

(a) The rules and procedures specified in this subpart are applicable to a proceeding to establish required minimum capital ratios that would otherwise be applicable to an institution under §§ 615.5205, 615.5330, and 615.5335. The Farm Credit Administration is authorized to establish such minimum capital requirements for an institution as the Farm Credit Administration, in its discretion, deems to be necessary or appropriate in light of the particular circumstances of the institution. Proceedings under this subpart also may be initiated to require an institution having capital ratios greater than those set forth in §§ 615.5205, 615.5330, or 615.5335 to continue to maintain those higher ratios.